IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 30353 of 2007(L)

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PETITIONER:

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1. PURUSHAN,CHARUVIL PUTHEN VEEDU, VAYYANKARA MURI, THAMARAKKULAM VILLAGE.

2. SANTHAKUMARI, CHARUVIL PUTHEN VEEDU, VAYYANKARA MURI, THAMARAKKULAM VILLAGE.

BY ADV. SRI.P.SREEKUMAR, SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENTS:

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1. BHASKARAN, S/O. NARAYANAN, REMYALAYAM, FROM THADATHIL THEKKATHIL PUTHEN VEEDU, THAMARAKULAM KIZHAKKUM MURI, THAMARAKKULAM VILLAGE.

2. RAGHAVAN, S/O. NARAYANAN, PUTHIYAVEETTIL, KARIKULACKAL MURI, CHUNAKKARA VILLAGE.

3. OMANA, W/O. RAGHAVAN, PUTHIYAVEETTIL, KARIKULACKAL MURI, CHUNAKKARA VILLAGE.

4. DISTRICT COLLECTOR,ALAPPUZHA.

5. DEPUTY DIRECTOR OF SURVEY DEPARTMENT, COLLECTORATE, ALAPPUZHA.

6. TAHSILDAR,MAVELIKKARA.

7. VILLAGE OFFICER, CHUNAKKARA.

8. THOMAS E.M.,CHUNKATHIVILAYIL, PUTHEN VEEDU, KOMALLOOR P.O., CHUNAKKARA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**M.N.Krishnan, J.**

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**W.P(C).No.30353 of 2007**

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**Dated this the 15th day of October, 2007.**

**JUDGMENT**

This Writ Petition is preferred against the order of the Munsiff, Mavelikkara in I.A.No.1620 of 2007 in O.S.No.66 of 2003. It was an application for amendment of the plaint. The amendment was sought for, for correcting the mistake that had crept in to the survey plan at the time of re-survey. Writ petitioner would contend that the said issue has become final in the year 1990-1991 and the statutory remedy for the aggrieved party is provided under the Act wherein steps have to be taken within one year from the date of attainment of finality.

2. The suit was instituted in the year 2003 and the proposed amendment is in the year 2007. Therefore, learned counsel for the writ petitioner contends that by allowing the amendment, the court will be entertaining a hopelessly bar of limitation issue. I am conscious of the fact that a valid right might have accrued to the party. It should not be ignored and in such cases, amendment applications normally shall not be entertained. Now here is the case where even according to the writ petitioner himself, the remedy is barred even in the year 1992. The suit is of the year 2003. Even if the present

amendment application is allowed, it will relate back only to 2003. So if the claim is already barred in 1992, it is a matter that can be considered by the court, which allowed the amendment application and can negative the relief to the plaintiff on that ground. The jurisdiction of the court also may arise an issue.

3. Therefore, at this juncture, I do not feel that interference is necessary against an order of amendment. But I make it very clear that the writ petitioner can file additional written statement specifically raising the question of limitation as well as the question of jurisdiction of the civil court to entertain the issue relating to the finality of the survey plan.

With this ground left open, the Writ Petition is dismissed.

M.N.Krishnan,
Judge.

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